

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
KEENAN M. SCOTT, *et al.*,

Plaintiffs,

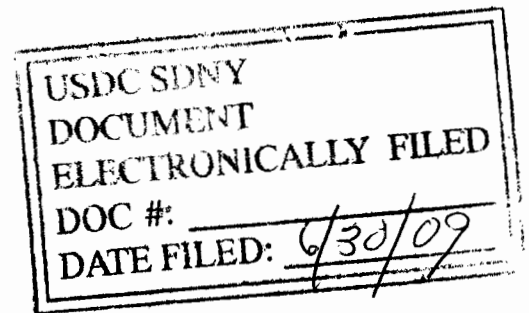
- against -

**CITY OF NEW YORK and THE NEW
YORK CITY POLICE DEPARTMENT,**

Defendants.
-----X

FINAL JUDGMENT

02 Civ. 9530 (SAS)



SHIRA A. SCHEINDLIN, U.S.D.J.:

This action commenced on November 27, 2002, and was tried before a jury on November 3, 10-14, 17-21, 24, and 25, and December 1 and 2, 2008. On December 2, 2008, the jury rendered a verdict. On the basis of the jury's verdict and rulings made by this Court, it is hereby ordered:

1. That plaintiffs' first count of their Amended Complaint (the "denial of use claim") is dismissed with prejudice and judgment is entered against plaintiffs and in favor of defendants on this claim.
2. That plaintiffs' second count of their Amended Complaint (the "cap claim") is dismissed with prejudice in part, insofar as the original claim sought


damages for the imposition of a cap on all overtime that an officer wanted to obtain and – pursuant to a Memorandum Opinion and Order dated Nov. 19, 2008, *Scott v. City of New York*, No. 02 Civ. 9530, 2008 WL 4949343 (S.D.N.Y. Nov. 19, 2008) – this claim was restricted to instances where defendants eliminated officers’ choice between compensatory time and cash compensation for mandatory overtime or for those voluntary assignments where an officer has already worked the assignment without agreeing in advance to accept compensatory time. With respect to that claim:

- a. Named plaintiffs Michael DeMartino and John Loomis – who testified at trial – established a showing that they were subjected to such an impermissible cap, but because they failed to prove that they suffered any damages as a result of receiving compensation in compensatory time rather than cash they shall have no recovery on this claim.
- b. Named plaintiffs Keenan M. Scott and John Logan – who testified at trial – failed to establish that they were subjected to any such impermissible cap, and their claims are dismissed with prejudice and judgment is entered against them and in favor of defendants on this claim.

- c. The claim of named plaintiff Robert Davison is dismissed with prejudice and judgment is entered against him and in favor of Defendants on this claim.
 - d. The “cap claim” for all other plaintiffs is dismissed without prejudice, as the claim was decertified pursuant to an oral ruling on November 24, 2008, *Scott v City of New York*, No. 02 Civ. 9530 (S.D.N.Y. Nov. 24, 2008). The timeliness of the opt-in plaintiffs’ cap claims is addressed by *American Pipe* tolling.
3. That plaintiffs have judgment against defendants on plaintiffs’ third count of their Amended Complaint (the “regular rate claim”) and on plaintiffs’ fourth count of their Amended Complaint (the “chart claim”), in the amount of \$450,000 in unpaid wages for the combination of those claims.
- Moreover, upon the finding that defendants’ violation of the Fair Labor Standards Act as alleged in counts three and four of plaintiffs’ Amended Complaint was willful, plaintiffs are awarded \$450,000 in liquidated damages, for a total of \$900,000 on these claims.
4. That plaintiffs’ fifth count of their Amended Complaint (the “15 minute claim”) is dismissed and judgment is entered against plaintiffs and in favor of defendants on this claim.

Plaintiffs shall recover from defendants post-judgment interest on the judgment at the rate provided by law. The Clerk of the Court shall enter this Final Judgment pursuant to Rules 58 and 79(a) of the Federal Rules of Civil Procedure.

SO ORDERED:



Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
June 30, 2009

- Appearances -

For Plaintiffs:

Thomas P. Puccio, Esq.
Law Offices of Thomas P. Puccio
230 Park Avenue
New York, New York 10169
(212) 883-6383

Gary A. Orseck, Esq.
Lawrence S. Robbins, Esq.
Damon W. Taaffe, Esq.
Robbins, Russell, Englert, Orseck,
Untereiner & Sauber LLP
1801 K. Street, NW, Suite 411
Washington, DC 20006
(202) 775-4500

Will Aitchison, Esq.
Mark A. Crabtree, Esq.
Aitchison & Vick, Inc.
3021 N.E. Broadway
Portland, Oregon 97232
(503) 282-6160

John T. Brennan, Esq.
Law Offices of John T. Brennan
26 Court Street, Suite 710
Brooklyn, New York 11242
(718) 923-5640

For Defendants:

Lorie E. Almon, Esq.
Jeremi L. Chylinski, Esq.
Seyfarth Shaw LLP
620 Eighth Avenue, 32nd Floor
New York, New York 10018
(212) 218-5500

James M. Lemonedes
Andrez Carberry
Assistant Corporation Counsel
100 Church Street, Room 2-108
New York, New York 10007
(212) 788-0922